



[4830-01-p]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9733]

RIN 1545-BJ49

United States Property Held by Controlled Foreign Corporations in Transactions Involving Partnerships; Rents and Royalties Derived in the Active Conduct of a Trade or Business; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations; correcting amendment.

SUMMARY: This document contains corrections to final and temporary regulations (TD 9733) that were published in the **Federal Register** on September 2, 2015 (80 FR 52976). The temporary regulations are regarding the treatment as United States property of property held by a controlled foreign corporation in connection with certain transactions involving partnerships.

DATES: This correction is effective on **[INSERT DATE OF PUBLICATION OF THIS DOCUMENT IN THE FEDERAL REGISTER]** and applicable beginning September 2, 2015.

FOR FURTHER INFORMATION CONTACT: Rose E. Jenkins at (202) 317-6934 (not a toll free number).

SUPPLEMENTARY INFORMATION:

**Background**

The final and temporary regulations (TD 9733) that are the subject of this correction are under sections 954 and 956 of the Internal Revenue Code.

**Need for Correction**

As published, the final and temporary regulations (TD 9733) contain errors that may prove to be misleading and are in need of clarification.

## **List of Subjects in 26 CFR Part 1**

Income taxes, Reporting and recordkeeping requirements.

## **Correction of Publication**

Accordingly, 26 CFR part 1 is corrected by making the following correcting amendments:

## **PART 1—INCOME TAXES**

Paragraph 1. The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 \*\*\*

Par. 2. Section 1.954-2T is amended by revising paragraph (a)(1) through (c)(1) introductory text, paragraph (c)(2)(iii) introductory text through (c)(2)(iii)(D), paragraph (c)(3) and (d)(1) introductory text, (d)(2)(iii) introductory text through (d)(2)(iii)(D), and the last sentence of paragraph (j) to read as follows:

### **§ 1.954-3T Foreign personal holding company income (temporary).**

(a)(1) through (c)(1) introductory text [Reserved]. For further guidance, see § 1.954-2(a)(1) through (c)(1) introductory text.

\* \* \* \* \*

(c)(2)(iii) introductory text through (c)(2)(iii)(D) [Reserved]. For further guidance, see § 1.954-2(c)(2)(iii) introductory text through (c)(2)(iii)(D).

\* \* \* \* \*

(c)(3) and (d)(1) introductory text [Reserved]. For further guidance, see § 1.954-2(c)(3) and (d)(1) introductory text.

\* \* \* \* \*

(d)(2)(iii) introductory text through (d)(2)(iii)(D) [Reserved]. For further guidance, see § 1.954-2(d)(2)(iii) introductory text through (d)(2)(iii)(D).

\* \* \* \* \*

(j) \* \* \* See § 1.954-2(c)(1)(i), (c)(1)(iv), (c)(2)(ii), (c)(2)(iii), (d)(1)(i), (d)(1)(ii), (d)(2)(ii), and (d)(2)(iii), as contained in 26 CFR part 1 revised as of April 1, 2015, for rules applicable to rents or royalties, as applicable, received or accrued before September 1, 2015.

\* \* \* \* \*

Par. 3. Section 1.956-1 is amended by revising paragraph (g) introductory text through (g)(3) to read as follows:

**§ 1.956-1 Shareholder's pro rata share of a controlled foreign corporation's increase in earnings invested in United States property.**

\* \* \* \* \*

(g) introductory text through (g)(3) [Reserved]. For further guidance, see § 1.956-1T(g) introductory text through (g)(3).

\* \* \* \* \*

Par. 4. Section 1.956-1T is amended by revising paragraph (b)(4)(ii), the third sentence of paragraph (b)(4)(iv) Example 1. (i), the first sentence of paragraph (b)(4)(iv) Example 3. (i), and paragraph (g)(1) to read as follows:

**§ 1.956-1T Shareholder's pro rata share of a controlled foreign corporation's increase in earnings invested in United States property (temporary).**

\* \* \* \* \*

(b) \* \* \*

(4) \* \* \*

(ii) Control. For purposes of paragraphs (b)(4)(i)(B) and (C) of this section, a controlled foreign corporation controls a foreign corporation or partnership if the controlled foreign corporation and the other foreign corporation or partnership are related within the meaning of section 267(b) or section 707(b). For this purpose, in determining whether two corporations are members of the same controlled group under section 267(b)(3), a person is considered to own stock owned directly by such person, stock owned for the purposes of section 1563(e)(1), and stock owned with the application of section 267(c).

\* \* \* \* \*

(iv) \* \* \*

Example 1. (i) \* \* \* FS2 has no earnings and profits, and FS1 has substantial accumulated earnings and profits. \* \* \*

\* \* \* \* \*

Example 3. (i) \* \* \* FS1 has \$100x of post-1986 undisturbed earnings and profits and \$100x post-1986 foreign income taxes, but does not have any cash. \* \* \*

\* \* \* \* \*

(g) \* \* \* (1) Paragraph (b)(4) of this section applies to taxable years of controlled foreign corporations ending on or after September 1, 2015, and to taxable years of United States shareholders in which or with which such taxable years end, with respect to property acquired on or after September 1, 2015. See paragraph (b)(4) of §1.956-1T, as contained in 26 CFR part 1 revised as of April 1, 2015, for the rules applicable to taxable years of controlled foreign corporations ending before September 1, 2015, and property acquired before September 1, 2015. For purposes of this paragraph (g)(1), a deemed exchange of property pursuant to section 1001 on or after September 1, 2015, constitutes an acquisition of the property on or after that date.

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